

FILED  
2005 DEC 14 31  
UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS  
CENTRAL DIVISION

Civil Action No. 05-40071-FDS

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CHRISTIAN SCHWENK  
Plaintiff,

v.

AUBURN SPORTSPLEX, LLC,  
DENNIS NATOLI, JOHN NATOLI,  
AND PETER NATOLI,  
Defendants

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FIRST AMENDED ANSWER OF DEFENDANTS AUBURN SPORTSPLEX,  
LLC, DENNIS NATOLI, JOHN NATOLI AND PETER NATOLI

Auburn Sportsplex, LLC, Dennis Natoli, John Natoli, and Peter Natoli (hereinafter collectively "Defendants") respond to the corresponding numbered paragraphs of Christian Schwenk's (the "Plaintiff") Verified Complaint as follows:

1. Defendants admit the allegations contained in Paragraph 1 of Plaintiff's Verified Complaint.
2. Defendants admit the allegations contained in Paragraph 2 of Plaintiff's Verified Complaint.
3. Defendants admit the allegations contained in Paragraph 3 of Plaintiff's Verified Complaint.
4. Defendants admit the allegations contained in Paragraph 4 of Plaintiff's Verified Complaint.
5. Defendants admit the allegations contained in Paragraph 5 of Plaintiff's Verified Complaint.
6. Defendants admit the allegations contained in Paragraph 6 of Plaintiff's Verified Complaint.
7. Defendants admit the allegations contained in Paragraph 7 of Plaintiff's Verified Complaint.

8. Defendants admit the allegations contained in Paragraph 8 of Plaintiff's Verified Complaint.

**Count I: Production of Records**

9. Defendants submit that the document speaks for itself. Therefore, no responsive pleading is required.
10. Defendants deny the allegations contained in Paragraph 10 of Plaintiff's Verified Complaint.
11. Defendants admit to having sent to Plaintiff a package containing information about a sports facility at Plaintiff's request. Defendants further state that the documents speak for themselves, therefore, no responsive pleading is required.
12. Defendants admit that Plaintiff transferred \$100,000 to ASP's account. Defendants deny the remaining allegations contained in Paragraph 11 of Plaintiff's Verified Complaint.
13. Defendants admit that Plaintiff executed a document entitled "Ownership Purchase Agreement". Defendants further admit that John V. Natoli, Peter Natoli and Dennis Natoli also signed an Agreement. Defendants deny the remaining allegations contained in Paragraph 13 of Plaintiff's Verified Complaint and deny that certain handwritten changes to the Agreement were agreed to by the Defendants.
14. Defendants submit that the document speaks for itself, therefore, no responsive pleading is required.
15. Defendants admit to having received a letter dated April 16, 2004 from Plaintiff. As for the remaining allegations contained in Paragraph 15, Defendants submit that the document speaks for itself, therefore, no responsive pleading is required concerning the letter's content.
16. Defendants admit to having received a letter dated April 16, 2004 from Plaintiff's representative.
17. Defendants admit to having received a letter dated April 19, 2004 from Plaintiff's representative. Defendants deny the remaining allegations contained in Paragraph 17 of Plaintiff's Verified Complaint.
18. Defendants admit to having received a letter dated April 19, 2004 from Plaintiff's representative.
19. Defendants deny the allegations contained in Paragraph 19 of Plaintiff's Verified Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of Plaintiff's Verified Complaint.
21. Paragraph 21 contains conclusions of law to which no responsive pleading is required. To the extent a response is required, denied.

**Count II: Appointment of Receiver & Accounting**

22. Defendants reassert and incorporate by reference their answers contained in the preceding paragraphs 1 through 21.
23. Defendants deny the allegations contained in Paragraph 23 of Plaintiff's Verified Complaint.
24. Defendants deny the allegations contained in Paragraph 24 of Plaintiff's Verified Complaint.
25. Defendants deny the allegations contained in Paragraph 25 of Plaintiff's Verified Complaint.
26. Paragraph 26 contains conclusions of law to which no responsive pleading is required. To the extent a response is required, denied.

**First Defense**

The Complaint fails to state a claim upon which relief may be granted.

**Second Defense**

The Plaintiff did not commence this action within the time prescribed by the applicable statute of limitations.

**Third Defense**

Plaintiff consented and/or acquiesced to the acts of the shareholders.

**Fourth Defense**

Plaintiff has had access to all requested and relevant documents. The Defendants are ready and willing to provide Plaintiff with all relevant documents.

**Fifth Defense**

This Court lacks subject matter jurisdiction.

**Sixth Defense**

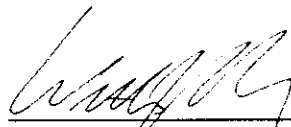
Plaintiff's Complaint is barred by estoppel.

**Seventh Defense**

Plaintiff's Complaint is barred by ratification.

The Defendants demand a trial by jury on all counts so triable.

Auburn Sportsplex, LLC  
Dennis Natoli, John Natoli,  
and Peter Natoli  
by their attorneys,



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